

## **Planning Commission Hearing**

### **Minutes**

**August 9, 2010**

<b>PC MEMBERS</b>	<b>PC MEMBERS ABSENT</b>	<b>STAFF PRESENT</b>
<b>Alderman Russell</b>		<b>Joe Adkins, Deputy Director for Planning</b>
<b>Billy Shreve</b>		<b>Gabrielle Dunn, Division Manager of Current Planning</b>
<b>Josh Bokee</b>		<b>Jeff Love, City Planner</b>
<b>Gary Brooks</b>		<b>Devon Hahn, City Traffic Engineer</b>
<b>Meta Nash</b>		<b>Scott Waxter, Assistant City Attorney</b>
<b>Steve Stoyke</b>		<b>Carreanne Eyler, Administrative Assistant</b>

**•I.       Announcements:**

**II.   Approval of Minutes:**

Approval of the **July 12, 2010** Planning Commission Minutes as amended:

**MOTION:     Commissioner Shreve.**

**SECOND:     Commissioner Bokee.**

**VOTE:               5-0.**

Approval of the **July 19, 2010** Workshop Minutes as amended:

**MOTION: Commissioner Shreve.**

**SECOND: Alderman Russell.**

**VOTE: 5-0. (Commissioner Bokee abstained)**

Approval of the August 6, 2010 Planning Commission Minutes as amended:

**MOTION: Commissioner Bokee.**

**SECOND: Alderman Russell.**

**VOTE: 5-0.**

### **III. Public Hearing-Swearing In:**

*"Do you solemnly swear or affirm that the responses given and statements made in this hearing before the Planning Commission will be the whole truth and nothing but the truth." If so, answer "I do".*

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### **•IV. Public Hearing-Consent Items:**

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(All matters included under the Consent Agenda are considered to be routine by the Planning Commission. They will be enacted by one motion in the form listed below, without separate discussion of each item, unless any person present - Planning Commissioner, Planning Staff or citizen -- requests an item or items to be removed from the Consent Agenda. Any item removed from the Consent Agenda will be considered separately at the end of the Consent Agenda. If you would like any of the items below considered separately, please say so when the Planning Commission Chairman announces the Consent Agenda.)

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•V. Miscellaneous:

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•A. Transit Friendly Guidelines

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

Mr. Davis entered the entire staff report into the record. He stated that staff is requesting approval of Phase I of the Transit Friendly Design Guidelines for the City of Frederick. Phase II will be going to the Planning Commission later in the fall.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff is requesting recommendation to move forward with Phase I of the Transit Friendly Design Guidelines to the Mayor & Board of Alderman.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

**PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:**

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City was applicant so no presentation was given.

**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was no questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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There was no public comment.

**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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There was no discussion or questions for staff from the Planning Commission.

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions from planning staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Bokee motioned to recommend the Transit Friendly Design Guidelines Phase I to the Mayor & Board of Aldermen for approval.

**SECOND:** Alderman Russell.

**VOTE:** 4-1. (Commissioner Shreve opposed)

•VI. **Old Business:**

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**B. PC10-174ZTA, Zoning Text Amendment, Indoor Recreation Complex**

**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

Mrs. Dunn entered the entire staff report into the record. She stated that the Applicant is requesting amendments to Section 404, "Use Regulations," Section 607, "Parking and Loading Standards," and Section 1002, "Definitions" of the Land Management Code (LMC) in order to introduce a new use category entitled "Indoor Recreation Complex" and to establish the zoning districts in which the use is permitted as well as the minimum parking standards for the new use.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff maintained the position that as a light industrial district, the M1 district is intended primarily for offices and industrial uses with limited environmental impacts and that other retail and service uses in the M1 district should support these primary functions. Staff questioned the appropriateness of the proposed use in conjunction with some of the other permitted uses in the M1 district and therefore, advises that it be excluded from the proposed text amendment.

### **PLANNING COMMISSION QUESTIONING OF STAFF:**

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Commissioner Shreve asked if the parking ratio proposed is appropriate for the use.

Mrs. Dunn stated there are others examples like a skating rink which might be a similar facility, which has a minimum parking standard of 1 per 1,000 s.f., so it is less parking than would be required. Other recreational uses, for example, private recreation services are at the rate of 1 per 1,000 s.f. as well.

Commissioner Shreve asked Mrs. Dunn if she had a recommendation.

Mrs. Dunn replied that if the Commission was not comfortable with the 1 per 650 as proposed, then she would refer them to the ratio for the skating rink.

### **PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:**

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Ashley Mancinelli, Severn, O'Connor & Kresslein, stated that they are asking for a recommendation from the Planning Commission this evening. She added that they do concur with the staff report and since the last hearing the bicycle parking was decreased to 1 per 20 spaces. Ms. Mancinelli mentioned that it is consistent with the skating rink and private recreational uses which are similar to the proposed uses that are included in the definition for a recreational complex. The only question left is whether M1 should be added to the list of permitted uses for this. She added that the M1 is consistent with other uses that are permitted by right. Ms. Mancinelli feels the uses and the intensity of the proposed indoor recreational complex is very similar to that. She concluded that she would like the Planning Commission to make a recommendation to the Mayor & Board of Aldermen to move forward with this text amendment for indoor recreational complex to the Land Management Code (LMC)

and permitting it in the zones of General Commercial (GC), Manufacturing Office (MO), Mixed Use (MU), Mixed Employment (MXE) and M1(Light Industrial).

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**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was no questioning of the petitioner/applicant from the Planning Commission.

**PUBLIC COMMENT:**

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There was no public comment.

**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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Commissioner Bokee asked if there can be a conditional use for the indoor recreational complex in M1 and if the City were to revise the indoor sports complex use, would it be allowed as conditional use in M1 district.

Mrs. Dunn said the important thing to keep in mind when looking at conditional uses is that you are making them conditional uses because you want to have the authority to establish certain criteria that they have to meet to be located in the proposed area and that they're mainly aimed to protect the surrounding community. She added that she would not suggest a conditional use in this case because our concerns of putting it in M1 aren't because of the impacts on the surrounding community but, more so related to these impact on this use from the surrounding community.

Commissioner Bokee asked if the same logic would apply if we would take away the conditional use and instead use the permitted use for the indoor sports complex.

Mrs. Dunn replied that the way that an "indoor sports complex" is defined; it is a large center for sporting and athletic events so you are still trying to control the impacts from parking and vehicles and that is the main thrust for the indoor sports complex.

Alderman Russell asked what an indoor recreation complex would generate as far as people.

Mrs. Dunn stated that the potential for spectator sports and events where admission is charged is one of the main triggers for this use being a conditional use this wouldn't be the case with an indoor recreational complex.

Commissioner Brooks feels that we have to allow the market place to make decisions too. If anyone decides to build in this area that is not conducive for a family to come participate in the service they offer, the market is going to dictate that. He added even though there are some restrictions in M1, he still thinks it is a good idea to include it.

Alderman Russell stated that she still has concerns about compatibility and is not sure that some things belong next to an indoor recreation complex.

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions from Planning Staff.

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**PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Shreve made a motion to recommend approval of PC10-174ZTA to approve the proposal as written with the only change being to change the parking ratio to 1 per 1,000 sf.

**SECOND:** Commissioner Brooks.

**VOTE:** 2-3.

Commissioner Shreve asked why there is a range for parking.

Mrs. Dunn stated it is to provide flexibility to allow users to determine if they are providing adequate parking.

Commissioner Shreve questioned what method is used to determine parking.

Mrs. Dunn replied that parking standards in general are based on trip generation data for generalized uses and feels that having a range is a good idea because you provide a bit of flexibility.

Mr. Scott Waxter, Assistant City Attorney wanted to clarify if Commissioner Shreve was asking whether or not the Planning Commission can require the applicant to build something higher than the minimum standard.

Commissioner Shreve replied almost and that except for the range that Mrs. Dunn is stating is 500 to 1,000 so at what point do you determine the parking requirement.

Mr. Waxter replied that what he believes Mrs. Dunn is saying is that if it is 500 and 1,000 that the Planning Commission does not get a choice, that is where they have to be somewhere in that range. If the applicant wants to go above or below that, they have to go to the Planning Commission and ask.

Commissioner Shreve stated that was what he was unclear of.

### **PLANNING COMMISSION ACTION:**

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**MOTION:** Commissioner Bokee moved to recommend to Mayor & Board of Aldermen for approval the text amendment PC10-174ZTA as present before the Planning Commission which include the GC, MU, MO, MXE and M1 districts and the 1 per 650 as presented before us here this evening.

**SECOND:** Commissioner Brooks.

**VOTE:** 3-2. (Commissioner Nash, Alderman Russell opposed)

•VII. **New Business:**

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C. **PC08-418FSI, Final Site Plan, Hillcrest Commercial**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting final site plan approval to construct a 25, 600 s.f. retail/office building and that the Applicant is also requesting the following modifications:

1. A modification to §607(f)(2) which requires parking facilities for uses not allowed in residential zoning districts to be set back at least 30' from residential zoning districts.
2. A modification from Table 607-6 which requires Level IV screening to be provided when loading spaces are located within 100' of a residentially zoned property.

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**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff recommended approval of a modification to §607(f)(2) for the required 30' setback between parking areas for nonresidential uses and residential zoning districts based on the compliance with the minimum Level II buffer requirement which will compensate for the impacts of the reduced distance between the parking lot and the interior lot line.

Staff recommended approval of a modification to Table 607-6 for the required Level IV screening requirement for loading areas which are within 100' of a residential zoning district as the change in elevation in conjunction with the 6' board-on-board fence to be provided will compensate for the reduce buffer width and plantings.

Staff recommended approval of final site plan PC08-418FSI with the following conditions:

To be met within 60 days:

- 1) Note the date of the modifications approvals under the modification section on sheet 1.
- 2) Revise the provided buffer width of the Level IV screening on sheet 2 to reflect the 27' width from the western property line.
- 3) A noted must be added to the plan stating, "Prior to building permit issuance, the Applicant must receive improvement plan approval and bond the required improvements to the intersection of Butterfly Lane and McCain Drive."

### **PLANNING COMMISSION QUESTIONING OF STAFF:**

Commissioner Nash questioned the letters regarding improvements to the westbound turn lane at Rte 40 and Hillcrest and the indication that they were not going to be pursued at this time. She asked if that could be explained a bit more in detail.

Devon Hahn, City Traffic Engineer stated that the applicant and staff worked together to come up with an agreed upon scope for all intersections to be considered. Since this study had intersections that were along a state route, SHA reviewed the Traffic Impact Study (TIS). She added that there was a request that the westbound left turn lane on Rte 40 at Hillcrest be lengthened because there is enough storage length to meet the left turn demand, however, the westbound through lane cuing is backing up past the left turn lane so there is not ample opportunity for left turning vehicles to access the storage lengths. Mrs. Hahn stated that through that analysis, staff requested that they

lengthen that left turn lane but going back and reviewing the LMC regulations it says that it is inadequate only if your storage length doesn't meet the turning cue length, which is not the case. She added that they had requested that mitigation, however, has now not required it.

Commissioner Nash asked if Mrs. Hahn could explain how they got so far offsite, in regards to the scoping, with this small improvement.

Mrs. Hahn replied that she believed that the scoping was agreed upon to include the McCain/Butterfly Lane intersection so they did the analysis and the study showed the intersection does not meet our adequacy standards in the LMC. Therefore, the LMC requires the applicant to provide mitigation if the intersection is operating inadequately.

Commissioner Brooks noted concern of the amount of traffic coming down Hillcrest at peak times and getting backed up. He asked if a right-in/right-out access point to the subject property might alleviate some of the back up on Hillcrest Drive.

Mrs. Hahn said it may not help and that typically drivers would find a less difficult way to get to Rt 40 by using U-turns or by other illegal movements, which might make the situation worse.

Commissioner Bokee asked if the City expected to lengthen the storage lane on Rt 40 in the future.

Mrs. Hahn replied there are no plans as of right now to do so.

**PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:**

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Mr. David Severn, Severn, O'Connor & Kresslein stated that they don't have any concerns with the staff report or the staff recommendations. He thinks what we have here is a site plan that the LMC has directed what has to be done in order to accommodate this additional amount of square feet. He added that they meet sight distance and all the minimum requirements and exceed the requirements of the LMC with the exception of the two modifications which are pretty reasonable. Mr. Severn finished by saying they don't have any issues with the staff recommendations and respectfully request the Planning Commission's approval.

#### **PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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Commissioner Brooks asked Mr. Severn if his client would be willing to do right-in/right-out.

Mr. Severn replied no.

Alderman Russell stated that if the access became a right-in/right-out only, there is an enforcement component and you will have people who will circumvent it anyway they can.

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#### **PUBLIC COMMENT:**

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Mr. Steve Ward stated he is president of the Executive Park West Condo Association and owners of the office condo on Hillcrest Drive to the north of the proposed building. He added that the condo association has concerns regarding the storm drainage. He said that two sewer lines were installed and caused the storm drain pipe to disconnect near the point where it meets Hillcrest Drive. He added another concern is Orchard Terrace because its intent was to be a driveway but now it is a public thoroughfare between the McCain and the Hillcrest area which is causing congestion on Hillcrest and our association is responsible for storm drain maintenance. He

respectfully asked the Planning Commission recommend that the City of Frederick take ownership to the storm water drain lines and the request of the final approval of the proposed development be contingent on the repair of the connection as mentioned above.

Mr. Scott Waxter stated that the issues addressed by the speaker are typically addressed during the Engineering Department review during the improvement plan phase and are not reviewed by the Planning Commission. He added that staff can assist with the issues, but not with the Planning Commission this evening.

Commissioner Bokee asked staff if they received any information pertaining to this before this evening.

Mrs. Dunn replied that staff was not aware of the concerns, but will be happy to pass them on to the Engineering Department.

Mr. Alan Imhoff, resident of the City of Frederick stated his only concern is that the City owns a rather large parcel of land right across from the Butterfly Lane/McCain Drive intersection and will probably develop it which in turn will create greater traffic conditions. He added that his concern is somewhere that this Commission as well as Planning takes that reverse process from this customer from 40 up to Butterfly Lane and applying it to the City as well. Mr. Imhoff also wanted to remind the Planning Commission that they have previously have done proportional sharing of improvements so that a small project would not have to bear the burden of a large improvement.

#### **PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

## **PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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Commissioner Brooks questioned if the additional trips were based on square footage, so no study was actually done to create the additional traffic.

Mrs. Hahn replied to clarify that he was asking about the existing counts that were conducted at the study intersection, that a new study was completed in 2008.

Commissioner Brooks feels that the Commission should request another traffic study because he thinks the information is incomplete and feels that the bigger issue is not being addressed.

Mike Wikoski, Wells & Associates stated that they did look at the driveway (Orchard Terrace) from the level of service perspective and didn't have an issue with the delays for the left turn coming out of Orchard Terrace or the site driveway, so the LMC standards are met and that analysis is included in the study.

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## **RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions from Planning Staff.

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## **PLANNING COMMISSION ACTION FOR MODIFICATIONS:**

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**MOTION:** Commissioner Bokee moved to recommend approval of 2 modifications for PC08-418FSI Hillcrest Commercial, modification 1) approval of modification to Section 607 (f) (2) for the required 30 foot setback as read into the record by staff and in the staff report with the compensating feature being the impacts



of the reduced distance between the parking lot and the interior lot line and modification 2) to Table 607-6 for the required Level IV screening requirement for loading areas within 100 feet of a residential zoning district as read into the record by staff and represented in the staff report for the compensating feature the 6 foot board on board fence of reducing buffer width and plantings.

**SECOND:** Alderman Russell.

**VOTE:** 5-0.

#### **PLANNING COMMISSION ACTION PC08-418FSI:**

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**MOTION:** Commissioner Bokee moved to recommend approval of final site plan PC08-418FSI with the 3 conditions to be met within 60 days as read into the record by staff and as presented in the staff report.

**SECOND:** Alderman Russell.

**DISCUSSION:** Commissioner Brooks feels that we are not looking at the issue and would like to request that we do another study and feels before this goes further the PC should look at it more.

Commissioner Shreve stated that they have to look at what is in front of them and believe the experts that have testified and have given us input from both Staff and the Applicant. That is what we are asked to consider this evening. He adds that what needs to be looked at are the regulations and how we got from where it started to where we are and how to eliminate things like this in the future. It is the regulations that that need to be reconsidered.

**VOTE:** 4-1. (Commissioner Brooks opposed)

#### **D. PC10-227FSI, Final Site Plan, City of Frederick Municipal Airport Air Traffic Control Tower**

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### **INTRODUCTION OF CASE BY THE PLANNING STAFF:**

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Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting final site plan approval to construct a 106' tall air traffic control tower at the Frederick Municipal Airport.

Additionally, the Applicant is requesting a modification to §607, Table 607-1 to exceed the maximum number of parking spaces permitted.

The Applicant is also requesting two modifications to the landscaping requirements under §605:

1. A modification to the requirement of providing one (1) tree per 6,000 s.f. or part in excess of 3,000 s.f. per §605(c)(4)
2. A modification to the requirement of providing a Level I screening buffer on lot lines abutting IST properties per §605 Table 605-3.

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### **INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff recommends approval of a modification to the maximum permitted parking to permit four (4) additional spaces on the site due to the anticipated number of employees.

Staff also recommends approval of the following landscaping modifications due to possible conflicts with the operation of the property as an airport:

1. A modification to the requirement of providing one (1) tree per 6,000 s.f. or part in excess of 3,000 s.f. per §605(c)(4); and
2. A modification to the requirement of providing a Level I screening buffer on lot lines abutting IST properties per §605 Table 605-3.

Staff recommends unconditional approval of final site plan PC10-227FSI.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of staff from the Planning Commission.

**PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:**

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City was Applicant, so no presentation was given.

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**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was no questioning of Petitioner/Applicant from the Planning Commission.

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**PUBLIC COMMENT:**

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Mr. Alan Imhoff stated that he strongly recommends accepting this project as is.

Mr. Charlie Abell, former Airport Manager, stated that he can't be more proud to stand here and recommend approval for the air traffic control tower.

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**PETITIONER REBUTTAL:**

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There was no petitioner rebuttal.

**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions from the planning staff.

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**PLANNING COMMISSION ACTION FOR MODIFICATIONS:**

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**MOTION:** Commissioner Bokee made a recommendation for approval of modifications for PC10-227FSI modification 1) the maximum permitted parking to permit 4 additional spaces on the site and compensating features due to the anticipated number of employees and then recommendation of the 2) landscaping modifications due to possible conflicts with the operation of the property as an airport as listed in the staff report.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

**PLANNING COMMISSION ACTION PC10-227FSI:**

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**MOTION:** Commissioner Bokee moved to recommend the unconditional approval of PC10-227FSI.

**SECOND:** Commissioner Brooks.

**VOTE:** 5-0.

**E. PC10-287FSCB, Combined Forest Stand Delineation and Preliminary Forest Conservation Plan, City of Frederick Municipal Airport Air Traffic Control Tower**

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**INTRODUCTION OF CASE BY THE PLANNING STAFF:**

Mr. Love entered the entire staff report into the record. He stated that the Applicant is requesting approval of a combined forest stand delineation/preliminary forest plan associated with final site plan PC10-227FSI for the construction of the air traffic control tower at the Frederick Municipal Airport.

The Applicant is requesting payment of fee-in-lieu in the amount of \$15,942.96.

**INITIAL PLANNING STAFF RECOMMENDATION:**

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Staff recommends unconditional approval of PC10-287FSCB for a payment of fee-in-lieu of \$15,942.96.

**PLANNING COMMISSION QUESTIONING OF STAFF:**

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There was no questioning of Staff from the Planning Commission.

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**PRESENTATION OF THE CASE BY THE PETITIONER/APPLICANT OR HIS AGENT OR ATTORNEY:**

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City was applicant, so no presentation was given.

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**PLANNING COMMISSION QUESTIONING OF PETITIONER/APPLICANT:**

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There was no questioning of Petitioner/Applicant from the Planning Commission.

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**PUBLIC COMMENT:**

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There was no public comment.

**PETITIONER REBUTTAL:**

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There was no Petitioner rebuttal.

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**PLANNING COMMISSION DISCUSSION AND QUESTIONS FOR STAFF:**

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There was no discussion or questions for Staff from the Planning Commission.

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**RESTATEMENT/REVISION OF PLANNING STAFF RECOMMENDATION:**

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There were no restatements/revisions from the Planning Staff.

**PLANNING COMMISSION ACTION:**

**MOTION:** Commissioner Bokee moved to recommend approval for PC10-287FSCB preliminary forest plan for the unconditional approval for fee in lieu of \$15,942.96 as read into the record by staff.

**SECOND:** Commissioner Brooks.

**VOTE:** 4-0.

**Meeting adjourned at 7:41 P.M.**

Respectfully Submitted,

Carreanne Eyler

Administrative Assistant